

SENATE BILL 345

K4
SB 396/06 – B&T

71r2368

By: **Senator McFadden**
Introduced and read first time: February 1, 2007
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Officers' Retirement System – DROP**

3 FOR the purpose of establishing a Deferred Retirement Option Program (DROP) for
4 certain members in the Correctional Officers' Retirement System; requiring the
5 State Retirement Agency to request certain documentation from the Internal
6 Revenue Service; making this Act subject to a certain contingency; and
7 generally relating to establishing a DROP for members of the Correctional
8 Officers' Retirement System.

9 BY renumbering

10 Article – State Personnel and Pensions
11 Section 25–401.1
12 to be Section 25–401.2
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2006 Supplement)

15 BY adding to

16 Article – State Personnel and Pensions
17 Section 25–401.1
18 Annotated Code of Maryland
19 (2004 Replacement Volume and 2006 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That Section(s) 25–401.1 of Article – State Personnel and Pensions of
22 the Annotated Code of Maryland be renumbered to be Section(s) 25–401.2.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article – State Personnel and Pensions**

4 **25–401.1.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (2) “DROP” MEANS THE DEFERRED RETIREMENT OPTION
8 PROGRAM ESTABLISHED UNDER THIS SECTION.

9 (3) “DROP MEMBER” MEANS A MEMBER OF THE CORRECTIONAL
10 OFFICERS’ RETIREMENT SYSTEM WHO:

11 (I) IS ELIGIBLE TO PARTICIPATE IN THE DROP AS
12 PROVIDED IN SUBSECTION (C) OF THIS SECTION; AND

13 (II) ELECTS TO PARTICIPATE IN THE DROP AS PROVIDED
14 IN SUBSECTION (E) OF THIS SECTION.

15 (B) THERE IS A DROP FOR ELIGIBLE MEMBERS OF THE
16 CORRECTIONAL OFFICERS’ RETIREMENT SYSTEM.

17 (C) A MEMBER OF THE CORRECTIONAL OFFICERS’ RETIREMENT
18 SYSTEM IS ELIGIBLE TO PARTICIPATE IN THE DROP IF THE MEMBER HAS AT
19 LEAST 25 YEARS OF ELIGIBILITY SERVICE.

20 (D) AN ELIGIBLE MEMBER MAY ELECT TO PARTICIPATE IN THE DROP
21 FOR A PERIOD NOT TO EXCEED THE LESSER OF:

22 (1) 5 YEARS; OR

23 (2) A TERM SELECTED BY THE MEMBER.

24 (E) (1) AN ELIGIBLE MEMBER WHO ELECTS TO PARTICIPATE IN THE
25 DROP SHALL:

1 (I) COMPLETE AND SUBMIT A WRITTEN ELECTION FORM TO
2 THE BOARD OF TRUSTEES, ON THE FORM THAT THE BOARD OF TRUSTEES
3 PROVIDES, STATING:

4 1. THE MEMBER'S INTENTION TO PARTICIPATE IN
5 THE DROP;

6 2. THE DATE WHEN THE MEMBER DESIRES TO
7 RETIRE;

8 3. THE PERIOD THAT THE MEMBER DESIRES TO
9 PARTICIPATE IN THE DROP, AS PROVIDED IN SUBSECTION (D) OF THIS
10 SECTION;

11 4. THE DATE WHEN THE MEMBER INTENDS TO
12 TERMINATE EMPLOYMENT WITH THE STATE IN THE FORM OF A BINDING
13 LETTER OF RESIGNATION ACCEPTED BY THE COMMISSIONER OF CORRECTIONS
14 OR THE COMMISSIONER'S DESIGNEE OF THE DEPARTMENT FOR WHICH THE
15 MEMBER IS EMPLOYED; AND

16 5. ANY OTHER INFORMATION REQUIRED BY THE
17 BOARD OF TRUSTEES TO IMPLEMENT THE DROP; AND

18 (II) COMPLETE AND SUBMIT A WRITTEN RETIREMENT
19 APPLICATION FORM TO THE BOARD OF TRUSTEES, ON THE FORM THAT THE
20 BOARD OF TRUSTEES PROVIDES.

21 (2) AN ELIGIBLE MEMBER'S ELECTION TO PARTICIPATE IN THE
22 DROP IS IRREVOCABLE.

23 (F) (1) A DROP MEMBER'S PARTICIPATION IN THE DROP SHALL
24 COMMENCE ON THE FIRST DAY OF THE MONTH FOLLOWING ACCEPTANCE BY
25 THE BOARD OF TRUSTEES OF THE DROP MEMBER'S COMPLETED ELECTION
26 FORM, RETIREMENT APPLICATION FORM, AND ANY OTHER INFORMATION
27 REQUIRED BY THE BOARD OF TRUSTEES.

28 (2) A DROP MEMBER IS A RETIREE OF THE CORRECTIONAL
29 OFFICERS' RETIREMENT SYSTEM.

1 **(G) PARTICIPATION IN THE DROP ENDS IF THE DROP PARTICIPANT:**

2 **(1) SEPARATES FROM EMPLOYMENT IN ACCORDANCE WITH THE**
3 **BINDING LETTER OF RESIGNATION SUBMITTED WITH THE MEMBER'S ELECTION**
4 **FORM;**

5 **(2) DIES;**

6 **(3) IS TERMINATED FROM EMPLOYMENT BY THE DROP**
7 **MEMBER'S PARTICIPATING EMPLOYER AT ANY TIME BEFORE THE DATE**
8 **SPECIFIED ON THE MEMBER'S ELECTION FORM;**

9 **(4) SHORTENS THE TIME PERIOD FOR PARTICIPATION IN THE**
10 **DROP BY DELIVERING TO THE DROP MEMBER'S PARTICIPATING EMPLOYER**
11 **AND THE BOARD OF TRUSTEES WRITTEN NOTICE OF THE INTENT OF THE DROP**
12 **MEMBER TO TERMINATE EMPLOYMENT; OR**

13 **(5) ACCEPTS AN ACCIDENTAL DISABILITY RETIREMENT**
14 **ALLOWANCE AS PROVIDED IN SUBSECTION (K) OF THIS SECTION.**

15 **(H) (1) AS OF THE EFFECTIVE DATE OF PARTICIPATION IN THE**
16 **DROP, THE BOARD OF TRUSTEES SHALL DETERMINE THE DROP MEMBER'S**
17 **NORMAL SERVICE RETIREMENT ALLOWANCE UNDER § 25-401 OF THIS**
18 **SUBTITLE.**

19 **(2) DURING THE PERIOD THAT A DROP MEMBER PARTICIPATES**
20 **IN THE DROP, THE BOARD OF TRUSTEES SHALL:**

21 **(I) DEPOSIT THE DROP MEMBER'S NORMAL SERVICE**
22 **RETIREMENT ALLOWANCE IN THE DROP FOR THE DROP MEMBER'S BENEFIT;**

23 **(II) ADJUST THE DROP MEMBER'S NORMAL SERVICE**
24 **RETIREMENT ALLOWANCE EACH FISCAL YEAR AS PROVIDED IN TITLE 29,**
25 **SUBTITLE 4, PART III OF THIS ARTICLE; AND**

26 **(III) ACCRUE INTEREST ON THE AMOUNTS CALCULATED**
27 **UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH FOR THE DROP MEMBER INTO**
28 **THE DROP AT THE RATE OF 6% A YEAR, COMPOUNDED MONTHLY.**

1 **(3) A DROP MEMBER MAY NOT RECEIVE CREDITABLE SERVICE**
2 **OR ELIGIBILITY SERVICE DURING THE PERIOD THAT THE DROP MEMBER**
3 **PARTICIPATES IN THE DROP.**

4 **(4) A DROP MEMBER'S COMPENSATION DURING THE PERIOD**
5 **THAT THE DROP MEMBER PARTICIPATES IN THE DROP MAY NOT BE:**

6 **(I) SUBJECT TO THE EMPLOYER PICKUP PROVISIONS OF §**
7 **21-303 OF THIS ARTICLE OR ANY REDUCTION OR DEDUCTION AS A MEMBER**
8 **CONTRIBUTION FOR PENSION OR RETIREMENT PURPOSES; OR**

9 **(II) USED TO INCREASE THE DROP MEMBER'S AVERAGE**
10 **FINAL COMPENSATION EXCEPT AS PROVIDED IN SUBSECTION (K) OF THIS**
11 **SECTION.**

12 **(5) DURING THE PERIOD THAT A DROP MEMBER PARTICIPATES**
13 **IN THE DROP, THE DROP MEMBER SHALL:**

14 **(I) CONTINUE TO RECEIVE COMPENSATION, HEALTH**
15 **INSURANCE, AND OTHER BENEFIT OPTIONS ESTABLISHED UNDER THE STATE**
16 **EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFIT PROGRAM**
17 **ADMINISTERED BY THE SECRETARY OF BUDGET AND MANAGEMENT, AND ANY**
18 **OTHER BENEFITS AS AN EMPLOYEE OF THE STATE;**

19 **(II) BE SUBJECT TO THE PERSONNEL LAW, REGULATIONS,**
20 **AND POLICIES APPLICABLE TO AN EMPLOYEE OF THE STATE AGENCY FOR**
21 **WHICH THE MEMBER IS EMPLOYED; AND**

22 **(III) RECEIVE RETIREMENT BENEFITS ONLY TO THE EXTENT**
23 **PROVIDED IN THIS SECTION.**

24 **(6) THE BOARD OF TRUSTEES IS NOT REQUIRED TO ESTABLISH**
25 **AN INDIVIDUAL DROP ACCOUNT FOR EACH DROP MEMBER.**

26 **(7) EACH YEAR, THE BOARD OF TRUSTEES SHALL PROVIDE A**
27 **DROP MEMBER WITH A WRITTEN ACCOUNTING OF THE DROP MEMBER'S**
28 **ACCOUNT BALANCE IN THE DROP.**

1 (I) (1) **SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,**
2 **ON TERMINATION OF A DROP MEMBER'S PARTICIPATION IN THE DROP, THE**
3 **BOARD OF TRUSTEES SHALL PAY TO THE DROP MEMBER OR, IF THE DROP**
4 **MEMBER HAS DIED, THE DESIGNATED BENEFICIARY OF THE DROP MEMBER,**
5 **THE AMOUNT ACCRUED IN THE DROP FOR THE DROP MEMBER UNDER**
6 **SUBSECTION (H)(2) OF THIS SECTION, REDUCED BY ANY WITHHOLDING TAXES**
7 **REMITTED TO THE INTERNAL REVENUE SERVICE OR OTHER TAXING**
8 **AUTHORITY, IN A LUMP SUM.**

9 (2) **A DROP MEMBER OR DESIGNATED BENEFICIARY OF A DROP**
10 **MEMBER MAY DIRECT THE BOARD OF TRUSTEES TO PAY ALL OR A PORTION OF**
11 **THE AMOUNT ACCRUED FOR THE DROP MEMBER'S BENEFIT UNDER**
12 **SUBSECTION (H)(2) OF THIS SECTION DIRECTLY TO THE CUSTODIAN OF AN**
13 **ELIGIBLE RETIREMENT PLAN AS PROVIDED IN TITLE 21, SUBTITLE 6 OF THIS**
14 **ARTICLE.**

15 (3) **A DROP MEMBER OR DESIGNATED BENEFICIARY OF A DROP**
16 **MEMBER IS ELIGIBLE TO RECEIVE THE AMOUNT DUE UNDER THIS SUBSECTION**
17 **WITHIN 90 DAYS AFTER:**

18 (I) **THE DATE OF TERMINATION OF THE DROP MEMBER'S**
19 **PARTICIPATION IN THE DROP;**

20 (II) **THE RECEIPT BY THE BOARD OF TRUSTEES OF A**
21 **COMPLETED APPLICATION TO RECEIVE THE DROP AMOUNT, ON THE FORM**
22 **THAT THE BOARD OF TRUSTEES PROVIDES; AND**

23 (III) **THE RECEIPT BY THE BOARD OF TRUSTEES OF ANY**
24 **OTHER INFORMATION THAT THE BOARD OF TRUSTEES REQUIRES TO PROCESS**
25 **PAYMENT OF THE DROP MEMBER'S ACCOUNT BALANCE TO THE DROP**
26 **PARTICIPANT, THE DESIGNATED BENEFICIARY OF THE DROP PARTICIPANT, OR**
27 **THE CUSTODIAN OF AN ELIGIBLE RETIREMENT PLAN.**

28 (J) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
29 **SUBSECTION, AS OF THE FIRST DAY OF THE MONTH FOLLOWING TERMINATION**
30 **OF A DROP MEMBER'S PARTICIPATION IN THE DROP, THE BOARD OF**
31 **TRUSTEES SHALL COMMENCE AND CONTINUE PAYMENT OF THE NORMAL**
32 **SERVICE RETIREMENT ALLOWANCE, INCLUDING THE COST-OF-LIVING**

1 ADJUSTMENTS AS PROVIDED IN TITLE 29, SUBTITLE 4, PART III OF THIS
2 ARTICLE, TO THE MEMBER AS PROVIDED IN § 25-401 OF THIS SUBTITLE.

3 (2) IF A DROP MEMBER DIES BEFORE TERMINATION OF THE
4 DROP MEMBER'S PARTICIPATION IN THE DROP, THE BOARD OF TRUSTEES
5 SHALL PAY THE RETIREMENT ALLOWANCE SELECTED BY THE DROP MEMBER,
6 INCLUDING THE COST-OF-LIVING ADJUSTMENTS AS PROVIDED IN TITLE 29,
7 SUBTITLE 4, PART III OF THIS ARTICLE, TO THE BENEFICIARY.

8 (K) (1) A DROP MEMBER IS ELIGIBLE TO APPLY FOR AN
9 ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE UNDER § 29-109 OF THIS
10 ARTICLE.

11 (2) IF THE BOARD OF TRUSTEES GRANTS A DROP MEMBER AN
12 ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE, THE DROP MEMBER MAY
13 ELECT TO RECEIVE THE ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE OR
14 CONTINUE TO PARTICIPATE IN THE DROP.

15 (3) (I) IF A DROP MEMBER ELECTS TO RECEIVE AN
16 ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE INSTEAD OF CONTINUING
17 TO PARTICIPATE IN THE DROP, THE DROP MEMBER SHALL:

18 1. SUBMIT AN APPLICATION TO THE BOARD OF
19 TRUSTEES, ON THE FORM THE BOARD OF TRUSTEES PROVIDES, TO RECEIVE
20 PAYMENT OF THE AMOUNT ACCRUED IN THE DROP IN ACCORDANCE WITH
21 SUBSECTION (I) OF THIS SECTION;

22 2. EXECUTE A WRITTEN WAIVER OF ANY BENEFITS
23 TO WHICH THE DROP MEMBER MAY BE ENTITLED UNDER THE DROP; AND

24 3. SUBMIT AN APPLICATION TO RETIRE WITH AN
25 ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE, ON THE FORM THE BOARD
26 OF TRUSTEES PROVIDES, STATING THE EFFECTIVE DATE OF THE DROP
27 MEMBER'S RETIREMENT AS AN ACCIDENTAL DISABILITY RETIREE.

28 (II) ON ACCEPTANCE OF THE APPLICATION FOR PAYMENT
29 AND APPLICATION TO RETIRE, THE BOARD OF TRUSTEES SHALL COMMENCE
30 PAYMENT OF AN ACCIDENTAL DISABILITY ALLOWANCE TO THE DROP MEMBER
31 AS PROVIDED IN § 29-110 OF THIS ARTICLE, EXCEPT THAT THE DROP

1 **MEMBER'S AVERAGE FINAL COMPENSATION SHALL BE COMPUTED AS OF THE**
2 **EFFECTIVE DATE OF THE DROP MEMBER'S APPLICATION FOR AN ACCIDENTAL**
3 **DISABILITY RETIREMENT ALLOWANCE.**

4 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 1,
5 2007, the State Retirement Agency shall request a determination letter from the
6 Internal Revenue Service that confirms the continued qualification under § 401 of the
7 Internal Revenue Code of the Correctional Officers' Retirement System, as amended
8 by the Deferred Retirement Option Program established under Section 2 of this Act.

9 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this
10 Act shall take effect contingent on receipt of a determination letter from the Internal
11 Revenue Service that confirms that the Correctional Officers' Retirement System, as
12 amended by the Deferred Retirement Option Program, is a qualified plan under § 401
13 of the Internal Revenue Code. If a favorable determination letter is received, Sections
14 1 and 2 of this Act shall take effect the first day of the month after the State
15 Retirement Agency receives the letter. If the State Retirement Agency does not receive
16 a favorable determination letter, Sections 1 and 2 of this Act, with no further action
17 required by the General Assembly, shall be null and void and of no further force and
18 effect. The State Retirement Agency, within 5 days after receiving the determination
19 letter from the Internal Revenue Service, shall forward a copy of the ruling to the
20 Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

21 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of
22 this Act, this Act shall take effect July 1, 2007.